

REMARKS

Applicant has carefully reviewed the Official Action dated September 30, 2010 placing this patent application under final rejection, and the Advisory Action dated January 4, 2011 in response to the Request For Reconsideration filed on December 22, 2010.

The present Amendment is accompanied by a Request For Continued Examination (RCE), a petition to extend the time for responding to the outstanding Official Action, and the applicable fee for filing the RCE and for the requested extension of time.

For the reasons discussed herein, Applicant respectfully submits that all claims are in condition for allowance over the prior art applied in the Final Action dated September 30, 2010.

In the Request For Reconsideration After Final Rejection filed on December 22, 2010, Applicant argued, among other things, that the Tamrock publication, applied to reject independent claims 1 and 11 under 35 U.S.C. Section 102(b), disclosed only adjusting flush power to a predetermined value which is established prior to actual drilling, and maintaining the pre-set value of flush power throughout the entire drilling process. On the contrary, Applicant's independent claims 1 and 11 expressly recited "... controlling power consumption during a rock drilling process ...".

In the Advisory Action dated January 4, 2011, the Examiner stated that the arguments presented in the Request For Reconsideration After Final Rejection would not be entered because they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. Among other things, the Advisory Action states that the recitation “during the rock drilling process” is only recited in the preamble of independent claims 1 and 11, and that the drilling process includes all steps involved in the execution of a drilling operation, including the steps of the set-up and installation of the drilling equipment, which includes the step of setting the flush power as a function of hole depth; using the drilling equipment to form a bore in the ground; and the removal of the drilling equipment after the bore has been drilled to the predetermined depth. The Examiner then concludes that “... even if the flush power [of the Tamrock publication] is not adjusted while the bore is being formed, the flush power must at least be adjusted during the initial planning phase of the rock drilling process.”

In view of the Examiner’s comments in the Advisory Action, the present Amendment has revised independent claims 1 and 11 to expressly recite that the flush power is adjusted during the actual drilling of the hole. The recitations added to independent claims 1 and 11 are included in the body of the respective claims, and not only the preamble of the claims. Support for the amendment to independent claims 1 and 11, that the flush power is adjusted during the actual drilling of the hole, is supported by the original disclosure, at, for example, page 4, lines 3 – 16; page 6, lines 15 – 29; and page 9, lines 2 – 8 of the original Specification.

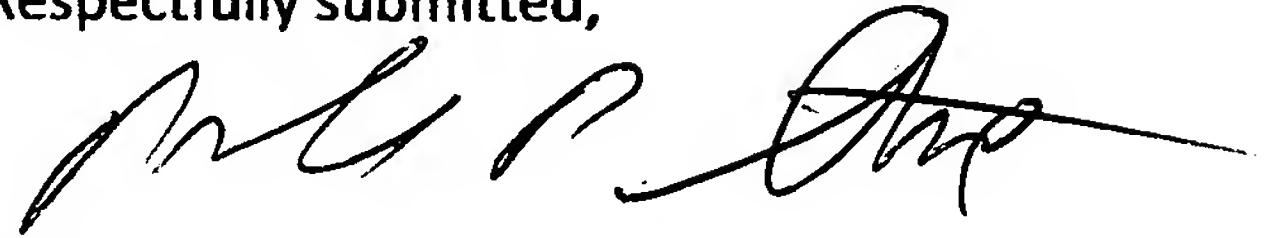
Applicant respectfully incorporates by reference herein the arguments advanced in the Request For Reconsideration After Final Rejection, filed on December 22, 2010, that the Tamrock publication fails to teach or suggest adjusting the flush power during actual drilling of the hole, as disclosed by Applicant and as now expressly recited in independent claims 1 and 11. For the reasons discussed in the Request For Reconsideration After Final Rejection, the Tamrock publication discloses only pre-setting the value of flush power prior to actual drilling, and maintaining the pre-set value of flush power throughout the actual drilling phase of the drilling process disclosed by the Tamrock publication.

By maintaining a pre-set value of flush power during actual drilling, the Tamrock publication teaches directly against the method and apparatus defined by independent claims 1 and 11, which now expressly recite that the flush power is adjusted during actual drilling of the hole by the rock drilling apparatus. Accordingly, the Tamrock publication also fails to recognize the numerous advantages of adjusting flush power during actual drilling of the hole as more fully discussed in Applicant's Specification.

Applicant respectfully submits that independent claims 1 and 11 are allowable over the Tamrock publication, applied to reject these claims in the Final Action. The remaining dependent claims, which depend from either independent claim 1 or independent claim 11, are allowable, at least for the same reasons as their respective parent independent claim.

Applicant respectfully submits that this patent application is in condition for allowance,
and favorable action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark P. Stone', with a long horizontal flourish extending to the right.

Mark P. Stone
Registration No. 27, 954
Attorney for Applicant
50 Broadway
Hawthorne, NY 10532
914-769-1106